

1 CAMPBELL & WILLIAMS  
2 J. COLBY WILLIAMS (5549)  
3 710 South Seventh Street, Suite A  
Las Vegas, Nevada 89101  
Telephone: 702/382-5222  
702/382-0540 (fax)  
4 jcw@cwlawlv.com

5 Local Counsel for Lead Plaintiff  
International Trading Group, Inc.  
6

7 ROBBINS GELLER RUDMAN  
& DOWD LLP  
8 RYAN A. LLORENS  
JEFFREY J. STEIN  
JOHN M. KELLEY  
JESSICA E. ROBERTSON  
10 655 West Broadway, Suite 1900  
San Diego, CA 92101  
11 Telephone: 619/231-1058  
619/231-7423 (fax)  
12 ryanl@rgrdlaw.com  
jstein@rgrdlaw.com  
jkelley@rgrdlaw.com  
14 jrobertson@rgrdlaw.com

15 Lead Counsel for Lead Plaintiff  
International Trading Group, Inc.  
16

17 UNITED STATES DISTRICT COURT

18 DISTRICT OF NEVADA

19 JOSE CHUNG LUO, Individually and on ) No. 2:21-cv-01612-CDS-BNW  
Behalf of All Others Similarly Situated, )  
20 )  
Plaintiff, ) CLASS ACTION  
21 )  
vs. )  
22 )  
SPECTRUM PHARMACEUTICALS, INC., et ) JOINT PROPOSED DISCOVERY PLAN  
al., ) PURSUANT TO FEDERAL RULE OF  
Defendants. ) CIVIL PROCEDURE 26(f)  
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1 Pursuant to Federal Rule of Civil Procedure 26(f) and the Court's October 9, 2024 Order  
 2 (ECF 117), International Trading Group, Inc. ("Lead Plaintiff") and Spectrum Pharmaceuticals, Inc.  
 3 ("Spectrum" or the "Company"), Joseph W. Turgeon, Kurt A. Gustafson, Dr. Francois J. Lebel, and  
 4 Thomas J. Riga (collectively, "Defendants," and together with Lead Plaintiff, the "Parties") hereby  
 5 submit this Joint Proposed Discovery Plan.

## 6 **I. PARTIES WHO ATTENDED THE RULE 26(f) CONFERENCE**

7 The Parties met telephonically on October 14, 2024. All Parties attended the Rule 26(f)  
 8 conference and assisted in developing this Joint Proposed Discovery Plan:

- 9 • Lead Plaintiff (represented at the Rule 26(f) conference by Robbins Geller Rudman  
   10 & Dowd LLP); and
- 11 • Defendants (represented at the Rule 26(f) conference by Baker Botts L.L.P.).

## 12 **II. DISCUSSION OF NECESSARY DISCOVERY**

### 13 **A. Extent, Nature, and Location of Anticipated Discovery**

14 Lead Plaintiff intends to seek written and oral discovery on all the factual bases underlying  
 15 its §§10(b), 20(a), and 20(A) claims pursuant to the Securities Exchange Act of 1934, including,  
 16 *inter alia*: (1) the false and misleading nature of the alleged misstatements at issue; (2) the  
 17 materiality of those statements; (3) Defendants' knowledge of, or reckless disregard for, the true  
 18 facts undercutting the alleged misstatements at issue; (4) Defendants' motive and opportunity to  
 19 commit the alleged fraud; (5) Defendants' transactions in Spectrum common stock; (6) the market  
 20 for Spectrum common stock; (7) the decline in the price of Spectrum common stock; and  
 21 (8) Defendants' control over the Company and each other. Lead Plaintiff anticipates that much of  
 22 this discovery will be located at Spectrum's corporate headquarters.

23 Lead Plaintiff maintains that discoverable information related to these issues would further  
 24 include, *inter alia*, the following general categories: (1) Spectrum's business and operations; (2) the  
 25 impact of poziotinib on Spectrum's business and operations; (3) the impact of the MD Anderson trial  
 26 and the ZENITH20 trial on Spectrum's business and operations; (4) the extent and content of  
 27 Defendants' communications with the Food and Drug Administration; (5) Defendants' knowledge of  
 28 the efficacy of existing treatments for Non-Small Cell Lung Cancer ("NSCLC"); (6) Defendants'

1 access to ZENITH20 trial data; and (7) Defendants' knowledge regarding the results of the  
 2 ZENITH20 trial throughout the Class Period of March 7, 2018 through August 5, 2021.

3 Defendants do not agree that all such information is discoverable, and in particular dispute  
 4 that any information related to the ZENITH20 trial is discoverable following the Court's October 7,  
 5 2024 Order Granting in Part and Denying in Part Defendants' Motion to Dismiss Second Amended  
 6 Complaint (ECF 116), and dispute that Lead Plaintiff can seek to maintain any putative Class Period  
 7 outside of May 3, 2018 through December 19, 2018.

8 Defendants intend to seek written and oral discovery on Lead Plaintiff's acquisition and sale  
 9 of Spectrum securities, Lead Plaintiff's reliance on the alleged misrepresentations, and the alleged  
 10 damages. Defendants may also seek written and oral discovery from nonparties related to Lead  
 11 Plaintiff's claims.

12 **B. Modifications to Discovery Limitations**

13 The Parties are aware that Civil Local Rule 26-1(b)(1) provides that, unless the Court orders  
 14 otherwise, discovery periods longer than 180 days from the date the first defendant answers or  
 15 appears require special review. The Parties' agreed-upon schedule below provides a discovery  
 16 period (inclusive of fact discovery and expert discovery, which the Parties agree should occur  
 17 sequentially in this matter), which is 401 days after the scheduled settlement conference (ECF 118),  
 18 508 days after the Court entered its Order Granting in Part and Denying in Part Defendants' Motion  
 19 to Dismiss Second Amended Complaint (ECF 116), and 1,470 days after the first defendant  
 20 appeared in this matter (ECF 30). The Parties agree that the period proposed in this Joint Proposed  
 21 Discovery Plan is reasonable for several reasons. First, pursuant to the Private Securities Litigation  
 22 Reform Act of 1995 ("PSLRA"), "all discovery and other proceedings" have been "stayed during the  
 23 pendency of [Defendants'] motion[s] to dismiss." 15 U.S.C. §78u-4(b)(3). By statute, the Parties  
 24 thus have not previously been able to engage in any discovery. Second, this case is a complex class  
 25 action brought under the Securities Exchange Act of 1934, which the Parties anticipate will involve  
 26 not only discovery from the Parties but also document and deposition subpoenas to several  
 27 nonparties. Third, the Parties will also be briefing a motion for class certification during the fact-  
 28 discovery period. Fourth, as set forth below, the Parties intend to delay substantial portions of

1 discovery until after an initial settlement conference, currently set for January 22, 2025 (the “Initial  
2 Settlement Conference”) (*see* ECF 118), but will engage in work prior to that date which will permit  
3 discovery to begin in earnest promptly following that date, if the Initial Settlement Conference is  
4 unsuccessful.

5 It is Defendants’ position that because the Court’s October 7, 2024 Order provides that “[i]f  
6 the parties are unable to reach an agreement resolving the claim [at the scheduled settlement  
7 conference], [Lead Plaintiff] will have the option to amend [its] complaint within fifteen days of the  
8 failed settlement conference” (ECF 116 at 32), discovery is properly stayed until fifteen days  
9 following the Initial Settlement Conference pursuant to the PSLRA and governing law.

10 Lead Plaintiff does not agree that the Court’s October 7, 2024 Order mandates or even  
11 suggests a discovery stay prior to the Initial Settlement Conference. Lead Plaintiff believes this  
12 position is supported by the PSLRA, controlling case law, and the Court’s Order to file this Joint  
13 Proposed Discovery Plan three months prior to the already-scheduled Initial Settlement Conference  
14 (ECF 117). But in the spirit of compromise, and without waiver of their legal arguments, the Parties  
15 have agreed that in this instance it is appropriate to delay certain discovery until after the Initial  
16 Settlement Conference as described below.

17 The Parties agree that, except by mutual agreement, they will engage only in the following  
18 discovery prior to the conclusion of the Initial Settlement Conference:

19 1. The Parties will serve their Rule 26(a)(1) initial disclosures by November 8, 2024.  
20 2. The Parties may serve Rule 34 requests for production on each other, in which case  
21 the receiving Party shall respond in writing, and the Parties thereafter will meet and confer on those  
22 responses and any objections, and work in good faith to attempt to reach agreement on scope of  
23 production and, as appropriate, custodians and search terms.

24 3. Prior to the Initial Settlement Conference, the Parties will agree on an ESI protocol  
25 and submit to the Court a proposed Rule 26(c) protective order to address the protection of  
26 confidential information and other issues.

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1     **III. ALTERNATIVE DISPUTE RESOLUTION**

2         The Parties certify that they met and conferred about the possibility of using alternative  
 3 dispute resolution processes, including mediation, arbitration, and if applicable, early neutral  
 4 evaluation.

5         The Court has scheduled the Initial Settlement Conference for January 22, 2025 at 10:00 a.m.  
 6 with Magistrate Judge Brenda Weksler. *See* ECF 118. If a resolution is not reached at the Initial  
 7 Settlement Conference, the Parties consent to attempting resolution through mediation but do not  
 8 consent to other alternative dispute resolution processes at this time.

9     **IV. ALTERNATIVE FORMS OF CASE DISPOSITION**

10       The Parties certify that they considered consent to trial by a magistrate judge under 28 U.S.C.  
 11 §636(c) and Federal Rule of Civil Procedure 73 and the use of the Short Trial Program (District of  
 12 Nevada General Order 2013-01). Neither party gives such consent at this time.

13     **V. ELECTRONIC EVIDENCE**

14       The Parties certify that they discussed whether they intend to present evidence in electronic  
 15 format to jurors for the purposes of jury deliberations. Although the Parties agree that a jury trial  
 16 would likely involve presenting electronic evidence, they agreed to defer discussion of the  
 17 particulars of those presentations until closer to trial.

18     **VI. PRE-TRIAL DEADLINES**

EVENT	DEADLINE
Exchange of Rule 26(a)(1) Initial Disclosures	Friday, November 8, 2024
Lead Plaintiff's Deadline to Amend the Operative Complaint per ECF 116	Thursday, February 6, 2025
Defendants' Answer (if Lead Plaintiff <b>does</b> exercise its option to amend)	In the event Lead Plaintiff does exercise its option to amend its complaint on or before February 6, 2025, the Parties will <b>within 7 days</b> confer on and submit to the Court a proposed schedule for briefing Defendants' anticipated motion to dismiss or other responsive filing.
Defendants' Answer (if Lead Plaintiff does <b>not</b> exercise its option to amend)	Thursday, February 27, 2025

EVENT	DEADLINE
Lead Plaintiff's Motion for Class Certification	Thursday, April 3, 2025
Defendants' Opposition to Class Certification	Thursday, May 29, 2025
Lead Plaintiff's Reply ISO Class Certification	Thursday, July 24, 2025 <sup>1</sup>
Substantial Completion of Document Production	Friday, August 8, 2025
Last Day to File Motion Seeking Joinder of Additional Parties	Monday, September 15, 2025
Last Day to File Motion Seeking Leave to Amend Pleadings	Monday, September 15, 2025
Completion of Fact Discovery	Wednesday, October 22, 2025
Parties' Opening Expert Reports on Any Issue on Which the Party Has the Burden of Proof <sup>2</sup>	Friday, November 21, 2025
Parties' Rebuttal Expert Reports	Friday, January 23, 2026
Completion of Expert Depositions	Friday, February 27, 2026
Parties' Dispositive Motions and <i>Daubert</i> Motions	Friday, March 27, 2026
Oppositions to Dispositive Motions and <i>Daubert</i> Motions	Tuesday, May 26, 2026
Replies in Support of Dispositive Motions and <i>Daubert</i> Motions	Friday, July 24, 2026
Joint Pretrial Order	Within 14 days following the Court's final decision on any dispositive motions filed by the above deadline, the Parties shall meet and confer and submit to the Court a proposed deadline for filing of the Joint Pretrial Order.

20 DATED: October 23, 2024

ROBBINS GELLER RUDMAN & DOWD LLP  
RYAN A. LLORENS  
JEFFREY J. STEIN  
JOHN M. KELLEY  
JESSICA E. ROBERTSON

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s/ Jeffrey J. Stein  
JEFFREY J. STEIN

<sup>1</sup> If Defendants present any issue in their Opposition to Class Certification on which Defendants bear the burden, the Parties shall confer on Defendants' ability to file a sur-reply brief and sur-reply expert report, and the timing of such submissions.

<sup>2</sup> The deadlines provided herein for expert discovery and reports do not include those related to class certification.

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655 West Broadway, Suite 1900  
San Diego, CA 92101  
Telephone: 619/231-1058  
619/231-7423 (fax)  
[ryanl@rgrdlaw.com](mailto:ryanl@rgrdlaw.com)  
[jstein@rgrdlaw.com](mailto:jstein@rgrdlaw.com)  
[jkelley@rgrdlaw.com](mailto:jkelley@rgrdlaw.com)  
[jrobertson@rgrdlaw.com](mailto:jrobertson@rgrdlaw.com)

Lead Counsel for Lead Plaintiff International  
Trading Group, Inc.

CAMPBELL & WILLIAMS  
J. COLBY WILLIAMS  
710 South Seventh Street, Suite A  
Las Vegas, Nevada 89101  
Telephone: 702/382-5222  
702/382-0540 (fax)  
[jcw@cwlawlv.com](mailto:jcw@cwlawlv.com)

Local Counsel for Lead Plaintiff International  
Trading Group, Inc.

DATED: October 23, 2024

BAKER BOTTS L.L.P.  
JOHN B. LAWRENCE (*pro hac vice*)

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s/ John B. Lawrence  
JOHN B. LAWRENCE

2001 Ross Avenue, Suite 900  
Dallas, TX 75201  
Telephone: 214/953-6500  
214/953-6503 (fax)  
[john.lawrence@bakerbotts.com](mailto:john.lawrence@bakerbotts.com)

BAKER BOTTS L.L.P.  
SCOTT D. POWERS (*pro hac vice*)  
401 South First Street, Suite 1300  
Austin, TX 78704  
Telephone: 512/322-2500  
512/322-2501 (fax)  
[scott.powers@bakerbotts.com](mailto:scott.powers@bakerbotts.com)

1  
2 BAKER BOTTS L.L.P.  
3 KEVIN M. SADLER (*pro hac vice*)  
4 1001 Page Mill Road  
5 Building One, Suite 200  
6 Palo Alto, CA 94304  
7 Telephone: 650/739-7500  
8 650/739-7699 (fax)  
9 kevin.sadler@bakerbotts.com

10  
11 Counsel for Defendants  
12

13 PISANELLI BICE PLLC  
14 JORDAN T. SMITH (State Bar No. 12097)  
15 400 South Seventh Street, Suite 300  
16 Las Vegas, NV 89101  
17 Telephone: 702/214-2100  
18 702/214-2101 (fax)  
19 jts@pisanellibice.com

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21 Counsel for Defendant Spectrum  
22 Pharmaceuticals, Inc.  
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24 \* \* \*

25  
26 O R D E R  
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28 IT IS SO ORDERED.

DATED: \_\_\_\_\_

19 THE HONORABLE CRISTINA D. SILVA  
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21 UNITED STATES DISTRICT JUDGE  
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